

The Berryville Town Council held four Public Hearings on December 12, 2006 at 7:30 p.m. in the Town Council Chambers at 15 E. Main Street, Berryville, Virginia.

The following were present:

Council - Richard G. Sponseller, Mayor  
Harry Lee Arnold, Jr., Recorder  
Wilson Kirby  
Lawrence Russell, III  
Barry Nicholson  
Allen Kitselman

Staff - Keith R. Dalton, Town Manager  
Desiree Moreland, Asst. Town Manager/Treasurer  
Christy Dunkle, Asst. Town Mgr/Town Planner  
Chief Neal White, Police Department  
Celeste Heath, Town Clerk

Press - Winchester Star: Bob Igoe

#### Public Hearing- Sale of Interest in Real Property

Mayor Sponseller called the public hearing to order on the following matter: The Town of Berryville proposes to sell fifteen percent of its interest in that property described as Tax Map Parcel 14-((A))-65 to the County of Clarke.

Mr. Dalton said that the public hearing was advertised in the Clarke Times Courier November 30, 2006 and December 7, 2006 and that no comment was received in the Town Office. (Public hearing notice attached)

There was no public comment.

On motion by Council member Nicholson, seconded by Council member Kitselman and passed, the public hearing was closed.

#### Public Hearing Special Use Permit- Private School

Mayor Sponseller called the public hearing to order on the following matter: Stephen and Margaret Querolo, owners, are requesting a Special Use Permit to operate a private school at 629 East Main Street.

Ms. Dunkle said that the public hearing was advertised in the Clarke Times Courier November 30, 2006 and December 7, 2006 and adjacent property owners were notified. No comment was received in the Planning Office. (Public hearing notice attached)

There was no public comment.

On motion by Council member Kitselman, seconded by Council member Nicholson and passed, the public hearing was closed.

The Town Council of the Town of Berryville, Virginia, will then hold the following public hearings at 7:30 p.m., or as soon thereafter as the matter may be heard, to hear public comment on the following matters:

**Sale of Interest in Real Property**

The Town of Berryville proposes to sell fifteen percent (15%) of its interest in that property described as Tax Map Parcel 14A5-((A))-65 to the County of Clarke.

The property in question was purchased by the Town of Berryville and the County of Clarke on April 23, 2001 with the Town owning a 65% undivided interest and the County owning a 35% undivided interest. Because the new Berryville/Clarke County Government Center will be located on the property the County of Clarke desires to own a 50% undivided interest in the property.

**Special Use Permit – Private School**

Stephen and Margaret Querolo, Owners, are requesting a Special Use Permit under Section 607.3(s) of the Berryville Zoning Ordinance in order to operate a private school at 629 East Main Street, identified as Tax Map Parcel number 14A-6-((4))-9 zoned C-1 Commercial. SUP 05-02

**Special Use Permit – Impervious Parking Within Designated Flood Plain Area**

Stephen and Margaret Querolo, Owners, are requesting a Special Use Permit under Section 206.13(f) of the Berryville Zoning Ordinance in order to construct an impervious parking area within the designated flood plain area located at 629 East Main Street, identified as Tax Map Parcel number 14A-6-((4))-9 zoned C-1 Commercial. SUP 05-04

**Spot Blight Abatement**

Modifications to Chapter 5 Building Regulations of the Code of the Town of Berryville establishing Section 5-5 Spot Blight Abatement.

Copies of pertinent materials may be examined at the Town Office, 23 East Main Street, Berryville, Virginia during regular business hours. Any person desiring to be heard on this matter should appear at the appointed time and place.

Neither the Town of Berryville nor the County of Clarke discriminates against disabled persons in admission or access to its programs and activities. Accommodations will be made for disabled persons upon prior request.

By Order of the Town Council and the Board of Supervisors  
Keith R. Dalton, Town Manager

### Public Hearing Special Use Permit- Impervious Parking in Designated Floodplain Area

Mayor Sponseller called the public hearing to order on the following matter: Stephen and Margaret Querolo, owners, are requesting a Special Use Permit in order to construct an impervious parking area within the designated flood plain at 629 East Main Street.

Ms. Dunkle said that the public hearing was advertised in the Clarke Times Courier November 30, 2006 and December 7, 2006 and adjacent property owners were notified. No comment was received in the Planning Office. (Public hearing notice attached)

There was no public comment.

On motion by Council member Kitselman, seconded by Council member Nicholson and passed, the public hearing was closed.

### Public Hearing Berryville Code Amendment - Spot Blight Abatement

Mayor Sponseller called the public hearing to order on the following matter: The Town of Berryville proposes amending Chapter 5 of the Code of the Town of Berryville in order to establish spot blight abatement standards.

Mr. Dalton said that the public hearing was advertised in the Clarke Times Courier November 30, 2006 and December 7, 2006 and that no comment was received in the Town Office. (Public hearing notice attached)

There was no public comment.

On motion by Council member Nicholson, seconded by Council member Kitselman and passed, the public hearing was closed.

Mayor Sponseller called the TOWN COUNCIL MEETING to order at 7:35 p.m. on December 12, 2006 in the Town Council Chambers at 15 E. Main Street, Berryville, Virginia.

On motion by Council member Nicholson, seconded by Council member Kirby and passed, the minutes of the Council meeting of November 14, 2006 were approved as written.

### Recorded Vote:

Aye –	Richard G. Sponseller, Mayor Harry Lee Arnold, Jr., Recorder Lawrence Russell, III Barry Nicholson Allen Kitselman Wilson Kirby
Nay –	None
Absent –	None

## **Citizen's Forum**

Robert Sherwood, 10 Farmer's Lane, Vice-President of Berryville Main Street congratulated the Town Council on the Community Improvements Committee meeting. He said that it was well attended and the tone was excellent. He said that perhaps a second stage would be a workshop. He said that Berryville Main Street would be glad to host such an event.

## **Report of the Mayor, Richard G. Sponseller**

Mayor Sponseller said that the Town of Berryville has been privileged for the last thirty years to have the services of Desirée Moreland, Assistant Town Manager/Treasurer.

Mayor Sponseller entertained a motion regarding the through truck restriction.

It was moved by Council member Nicholson, seconded by Council member Kitselman that the Council of the Town of Berryville approve a request that the Commonwealth Transportation Board approve the restriction of Through Tractor Truck and Trailer Traffic on a portion of Business Route 7 (hereafter referenced as Main Street), Mosby Boulevard (Route T-1035), Jackson Drive (Route T-1041), and Hermitage Boulevard (Route T-1029) in Berryville and a portion of Main Street and Westwood Road in Clarke County in accordance with § 46.2-809 of the Code of Virginia as follows:

### *Main Street*

Through tractor trucks and trailers would be prohibited on Main Street from First Street (Route T-615), west to the intersection of Main Street and Route 7 west of Berryville.

The proposed alternate routes are:

For traffic traveling south on First Street and all points east of the intersection of Main and First Streets: Traffic to turn left (east) onto Main Street and proceed to intersection of Main Street and Route 7 east of Berryville: - East bound traffic to turn right on Route 7 – West bound traffic to turn left on Route 7 – South bound traffic to turn left on Route 7 and then turn onto Route 340 south – North bound traffic to turn left on Route 7 and then turn onto Route 340 north

For traffic traveling north on Route 340 south of Main Street: Traffic to proceed north on Route 340 across Main Street: – East bound traffic to turn right onto Route 7 - West bound traffic to turn left onto Route 7 – North bound traffic to continue straight on Route 340

For traffic traveling south on Route 340 north of Main Street: South bound traffic to continue straight on Route 340 – West bound traffic to turn right onto Route 7, north of Town – East bound traffic to turn left onto Route 7, north of Town

For traffic traveling east on Route 7, west of Town: east bound continue traveling east on Route 7 – South bound continue east on Route 7 then turn onto Route 340 South – North bound continue east on Route 7 then turn onto

#### Route 340 north

For traffic traveling west on Route 7, east of Town: West bound continue traveling west on Route 7 – South bound continue west on Route 7 then turn onto Route 340 South – North bound continue west on Route 7 then turn onto Route 340 north

#### *Mosby Boulevard & Jackson Drive*

Through tractor trucks and trailers would be prohibited on Mosby Boulevard from its intersection with Buckmarsh Street (Route 340) to its intersection with Jackson Drive and on Jackson Drive from its intersection with Mosby Boulevard to its intersection with Main Street.

The proposed alternate routes are:

As these streets intersect with Main Street the same alternate routes apply to this road section.

#### *Hermitage Boulevard*

Through tractor trucks and trailers would be prohibited on Hermitage Boulevard from its intersection with Main Street to its intersection with Buckmarsh Street.

The proposed alternate routes are:

As this street intersects with Main Street the same alternate routes apply to this road.

#### *Westwood Road*

Through tractor trucks and trailers would be prohibited on Westwood Road (Route 636) from its intersection with Main Street to its intersection with Senseny Road (Route 657).

Proposed alternate routes are:

For traffic traveling on Route 7 and traveling to points south: Traffic from Route 7 west of Berryville to turn left at Triple J Road (Route 632) then turn left onto Senseny Road / For traffic from Route 7 east of Berryville: take right exit to Route 340 – turn left onto Route 340 South – Turn right onto Senseny Road.

For traffic traveling on Route 340 north of Main Street in a southerly direction: turn right onto Senseny Road / For traffic traveling on Route 340 south of Main Street: turn left onto Senseny Road

The Town of Berryville will use its good officers for enforcement of the proposed restriction by the appropriate local law enforcement agency.

#### VOTE:

Recorded Vote:      Aye – Richard G. Sponseller, Mayor  
                                 Harry Lee Arnold, Jr., Recorder  
                                 Wilson Kirby  
                                 Allen Kitselman  
                                 Barry Nicholson  
                                 Lawrence Russell, III

Nay – None

Absent – None

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF A REQUEST THAT THE COMMONWEALTH  
TRANSPORTATION BOARD APPROVE THE RESTRICTION OF THROUGH TRUCK  
TRAFFIC ON A PORTION OF MAIN STREET (BUSINESS ROUTE 7) IN  
BERRYVILLE IN ACCORDANCE WITH § 46.2-809 OF THE CODE OF VIRGINIA.

Date: December 12, 2006

Motion By: Barry Nicholson

Second By: Allen Kitselman

I move that the Council of the Town of Berryville approve a request that the Commonwealth Transportation Board approve the restriction of Through Tractor Truck and Trailer Traffic on a portion of Business Route 7 (hereafter referenced as Main Street), Mosby Boulevard (Route T-1035), Jackson Drive (Route T-1041), and Hermitage Boulevard (Route T-1029) in Berryville and a portion of Main Street and Westwood Road in Clarke County in accordance with § 46.2-809 of the Code of Virginia as follows:

*Main Street*

Through tractor trucks and trailers would be prohibited on Main Street from First Street (Route T-615), west to the intersection of Main Street and Route 7 west of Berryville.

The proposed alternate routes are:

For traffic traveling south on First Street and all points east of the intersection of Main and First Streets: Traffic to turn left (east) onto Main Street and proceed to intersection of Main Street and Route 7 east of Berryville: - East bound traffic to turn right on Route 7 - West bound traffic to turn left on Route 7 - South bound traffic to turn left on Route 7 and then turn onto Route 340 south - North bound traffic to turn left on Route 7 and then turn onto Route 340 north

For traffic traveling north on Route 340 south of Main Street: Traffic to proceed north on Route 340 across Main Street: - East bound traffic to turn right onto Route 7 - West bound traffic to turn left onto Route 7 - North bound traffic to continue straight on Route 340

For traffic traveling south on Route 340 north of Main Street: South bound traffic to continue straight on Route 340 - West bound traffic to turn right onto Route 7, north of Town - East bound

traffic to turn left onto Route 7, north of Town

For traffic traveling east on Route 7, west of Town:  
east bound continue traveling east on Route 7 -  
South bound continue east on Route 7 then turn onto  
Route 340 South - North bound continue east on Route  
7 then turn onto Route 340 north

For traffic traveling west on Route 7, east of Town:  
West bound continue traveling west on Route 7 -  
South bound continue west on Route 7 then turn onto  
Route 340 South - North bound continue west on Route  
7 then turn onto Route 340 north

#### *Mosby Boulevard & Jackson Drive*

Through tractor trucks and trailers would be prohibited on Mosby Boulevard from its intersection with Buckmarsh Street (Route 340) to its intersection with Jackson Drive and on Jackson Drive from its intersection with Mosby Boulevard to its intersection with Main Street.

The proposed alternate routes are:

As these streets intersect with Main Street the same alternate routes apply to this road section.

#### *Hermitage Boulevard*

Through tractor trucks and trailers would be prohibited on Hermitage Boulevard from its intersection with Main Street to its intersection with Buckmarsh Street.

The proposed alternate routes are:

As this street intersects with Main Street the same alternate routes apply to this road.

#### *Westwood Road*

Through tractor trucks and trailers would be prohibited on Westwood Road (Route 636) from its intersection with Main Street to its intersection with Senseny Road (Route 657).

Proposed alternate routes are:

For traffic traveling on Route 7 and traveling to points south: Traffic from Route 7 west of Berryville to turn left at Triple J Road (Route 632) then turn left onto Senseny Road / For traffic from Route 7 east of Berryville: take right exit to Route 340 - turn left onto Route 340 South - Turn right onto Senseny Road.

For traffic traveling on Route 340 north of Main Street in a southerly direction: turn right onto Senseny Road / For traffic traveling on Route 340 south of Main Street: turn left onto Senseny Road

The Town of Berryville will use its good officers for enforcement of the proposed restriction by the appropriate local law enforcement agency.

VOTE:

Aye -       Richard G. Sponseller, Mayor  
              Harry Lee Arnold, Jr., Recorder  
              Wilson Kirby  
              Allen Kitselman  
              Barry Nicholson  
                              Lawrence Russell, III

Nay -       None

Absent -   None

ATTEST:

\_\_\_\_\_  
Harry Lee Arnold, Jr., Recorder



## **Planning and Zoning Matters**

### **Action on Public Hearings**

#### **Special Use Permit- Private School**

Ms. Dunkle said that Stephen and Margaret Querolo, owners, are requesting a Special Use Permit to operate a private school at 629 East Main Street. She said that the Planning Commission recommended approval of this Special Use Permit with operating hours from 8:00 a.m. to 10 p.m. Monday through Saturday.

It was moved by Council member Nicholson, seconded by Council member Kitselman to approve a Special Use Permit to allow a private school to operate at 629 East Main Street, identified as Tax Map Parcel number 14A6-((4))-9, zoned C-1 Commercial under Section 607.3(s) of the Town of Berryville Zoning Ordinance with the following condition:

1. Hours of operation are from 8:00 a.m. to 10:00 p.m. Monday through Saturday.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Harry Lee Arnold, Jr., Recorder  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

#### **Special Use Permit- Impervious Parking in Designated Floodplain Area**

Ms. Dunkle explained that Stephen and Margaret Querolo, owners, are requesting a Special Use Permit in order to construct an impervious parking area within the designated flood plain at 629 East Main Street and that the Planning Commission has recommended approval.

It was moved by Council member Nicholson, seconded by Council member Kitselman to approve a Special Use Permit to allow the construction of an impervious parking area within the designated flood plain area located at 629 East Main Street, identified as Tax Map Parcel number 14A6-((4))-9, zoned C-1 Commercial under Section 206.13(f) of the Town of Berryville Zoning Ordinance.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Harry Lee Arnold, Jr., Recorder  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Absent – None

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF SPECIAL USE PERMIT

Date: December 12, 2006

Motion By: Barry Nicholson

Second By: Allen Kitselman

I move that the Council of the Town of Berryville approve a Special Use Permit to allow a private school to operate at 629 East Main Street, identified as Tax Map Parcel number 14A6-((4))-9, zoned C-1 Commercial under Section 607.3(s) of the Town of Berryville Zoning Ordinance with the following condition:

1. Hours of operation are from 8:00 a.m. to 10:00 p.m.  
Monday through Saturday.

VOTE:

Aye: Richard G. Sponseller, Mayor  
Harry Lee Arnold, Jr., Recorder  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay: None

Absent: None

ATTEST:

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Harry Lee Arnold, Jr., Recorder

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF SPECIAL USE PERMIT

Date: December 12, 2006

Motion By: Barry Nicholson

Second By: Allen Kitselman

I move that the Council of the Town of Berryville approve a Special Use Permit to allow the construction of an impervious parking area within the designated flood plain area located at 629 East Main Street, identified as Tax Map Parcel number 14A6-((4))-9, zoned C-1 Commercial under Section 206.13(f) of the Town of Berryville Zoning Ordinance.

VOTE:

Aye: Richard G. Sponseller, Mayor  
Harry Lee Arnold, Jr., Recorder  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay: None

Absent: None

ATTEST:

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Harry Lee Arnold, Jr., Recorder

## Berryville Code Amendment - Spot Blight Abatement

Ms. Dunkle said that the Town of Berryville proposes amending Chapter 5 of the Code of the Town of Berryville in order to establish spot blight abatement standards.

It was moved by Council member Nicholson, seconded by Council member Kitselman to approve the attached ordinance amending Chapter 5 Building Regulations of the Code of the Town of Berryville establishing Section 5-5 Spot Blight Abatement.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Harry Lee Arnold, Jr., Recorder  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Code of the Town of Berryville  
§ 5.5 Spot Blight Abatement

- (a) The Town of Berryville, in accordance with Code of Virginia § 36-49.1:1, may acquire or repair any blighted property, as defined in (b), below, by purchase or the exercise of the power of eminent domain provided in Chapter 2 of Title 25.1 of the Code of Virginia, and, further, shall have the power to hold, clear, repair, manage, or dispose of such property for purposes consistent with this section. In addition, the Town may recover the cost of any repair or disposal of such property from the owner or owners of record, determined in accordance with Virginia Code § 36-27(B).
- (b) "Blighted property" means any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards.
- (c) The Town Manager, or his/her designee, shall make a preliminary determination that a property is blighted in accordance with this section. The Town Manager or his/her designee shall send notice to the owner or owners of record, determined in accordance with Virginia Code § 36-27(B), specifying the reasons why the property is blighted. The owner or owners of record shall have thirty (30) days from the date the notice is sent in which to respond in writing with a spot blight abatement plan to address the blight within a reasonable time.
- (d) If the owner or owners of record fail to respond within the thirty (30) day period with a written spot blight abatement plan that is acceptable to the Town Manager or his/her designee, the Town (i) may request the Planning Commission

- to conduct a public hearing and make findings and recommendations that shall be reported to Town Council concerning the repair or other disposition of the property in question; and (ii) in the event a public hearing is scheduled, shall prepare a written spot blight abatement plan for the repair or other disposition of the property.
- (e) Not less than three (3) weeks prior to the date of the public hearing before the Planning Commission, the Commission shall provide, by regular and certified mail, notice of such hearing to (i) the owner of the blighted property or the agent designated by him for receipt of service or notices concerning the payment of real estate taxes within the Town; (ii) the abutting property owners in each direction, including those property owners immediately across the street or road from the property; and (iii) the representative neighborhood association, if any, for the immediate area. The notice shall include the plan for the intended repair or other disposition of the property. The notice of the public hearing shall be published at least twice, with not less than six (6) days elapsing between the first and second publication in a newspaper published or having general circulation in the Town. The notice shall be posted on the property. The notice shall specify the time and place of the public hearing at which persons affected may appear and present their views, not less than six (6) days nor more than twenty-one (21) days after the second publication.
- (f) The Planning Commission, following the public hearing, shall determine whether:
- (1) the property is blighted;
  - (2) The owner has failed to cure the blight or present a reasonable plan to do so;
  - (3) The plan for the repair or other disposition of the property is in accordance with the Town's Comprehensive Plan, Zoning Ordinance, and any other applicable land use regulation;
  - (4) The property is located within an area listed on the National Register of Historic Places. In such instances, the Planning Commission shall consult with the Architectural Review Board regarding the proposed repair or other disposition of the property by the Town Council.
- (g) The Planning Commission shall report its findings and recommendations concerning the property to the Town Council. The Town Council, upon receipt of such findings and recommendations, may, after an advertised public hearing, affirm, modify, or reject the Planning Commission's findings and recommendations. If the repair or other disposition of the property is approved, the Town may carry out the approved plan to repair or acquire and dispose of the property in accordance with the approved plan, the provisions of this section, and applicable law.

- (h) The Town shall have a lien on all property so repaired or acquired, under an approved plan to recover the cost of (i) improvements made by the Town to bring the blighted property into compliance with applicable building codes and (ii) disposal, if any. The lien authorized by this section shall be filed in the Circuit court of Clarke County and shall be subordinate to any prior liens of record. The Town Council may recover its costs of repair from the owner or owners of record of the property when the repairs were made at such time as the property is sold or disposed of by such owner or owners. If the property is acquired by the Town through eminent domain, the cost of repair may be recovered when Town Council sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds of any such sale.
- (i) If the blighted property is occupied for personal residential purposes, Town Council, in approving the spot blight abatement plan, shall not acquire by eminent domain such property if it would result in a displacement of the person or persons living in the premises. The provisions of this subsection shall not apply to acquisition, under an approved spot blight abatement plan, by the Town of property which has been condemned for human habitation for more than one year. In addition, upon the Town exercising the powers of eminent domain in accordance with Title 25.1 of the Code of Virginia, it may provide for temporary relocation of any person living in the blighted property provided the relocation is within the financial means of such persons.
- (j) In lieu of the acquisition of blighted property by the exercise of eminent domain, and in lieu of the exercise of other powers granted in subsections (a) through (i), Town Council by ordinance, may declare any blighted property to constitute a nuisance, and thereupon abate the nuisance pursuant to Virginia Code § 15.2-900 or 15.2-1115. Such ordinance shall be adopted only after the written notice by certified mail to the owner or owners of the property at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records.
- (k) The provisions of this section shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by law.

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF AMENDMENT TO CHAPTER 5, BUILDING  
REGULATIONS, OF THE CODE OF TOWN OF BERRYVILLE

Date: December 12, 2006

Motion By: Barry Nicholson

Second By: Allen Kitselman

I move that the Council of the Town of Berryville approve the attached ordinance amending Chapter 5 Building Regulations of the Code of the Town of Berryville establishing Section 5-5 Spot Blight Abatement.

VOTE:

Aye: Richard G. Sponseller, Mayor  
Harry Lee Arnold, Jr., Recorder  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay: None

Absent: None

ATTEST:

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Harry Lee Arnold, Jr., Recorder

### Sale of Interest in Real Property

Mr. Dalton explained that the town's attorney has recommended that the ownership of the Government Center parcel be 50/50 between the Town and County. Accordingly, this would involve selling 15% of the town's undivided interest.

It was moved by Council member Nicholson, seconded by Council member Kitselman to approve the sale of 15% ownership interest in tax map parcel 14-((A))-65 to the County of Clarke for the purchase price of \$60,000.

Mr. Dalton said that the town's attorney has suggested that an agreement should be entered into to make sure that, if one of the parties involved in the project should have to pull out, that the other party can readily purchase the other 50% of the property and move on.

Council member Nicholson moved to amend the previous motion to include an agreement drafted by the town's attorney to make sure that if one of the parties involved in the project should have to pull out, that the other party can readily purchase the other 50% of the property. Council member Kitselman agreed to the amendment.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Harry Lee Arnold, Jr., Recorder  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Absent – None

### **Planner's Monthly Report**

#### Set Public Hearings – 328 North Buckmarsh Street

##### Set Public Hearing – Comprehensive Plan Amendment

An amendment to Chapter 9 Future Land Use and the Future Land Use Map of the Berryville Comprehensive Plan to modify future land uses from Residential to Commercial on one parcel fronting on North Buckmarsh Street and a portion of a second parcel fronting on Ridge Road. Rezoning of two parcels is currently under consideration.

##### Set Public Hearing – Rezoning

Glen R. Poe, Owner, is requesting the rezoning of approximately 2.45 acres, located at 328 North Buckmarsh Street, identified as Tax Map Parcel number 14A2-((A))-2 and a portion of the parcel identified as Tax Map Parcel number 14A2-((A))-3, from DR-4 Detached Residential zoning to C General Commercial zoning. A Boundary Line Adjustment is under consideration should the Rezoning request be approved.  
RZ 03-06

##### Set Public Hearing - Zoning Map Amendment

An amendment to the Zoning Map of the Town of Berryville changing the zoning of one lot and a portion of a second lot that front on North Buckmarsh Street and Ridge Road,



TOWN COUNCIL  
MOTION FOR APPROVAL:  
SALE OF 15% OWNERSHIP INTEREST IN TAX MAP PARCEL 14-((A))-65

Date: December 12, 2006

Motion By: Barry Nicholson

Second By: Allen Kitselman

I hereby move that the Council of the Town of Berryville approves the sale of 15% ownership interest in tax map parcel 14-((A))-65 to the County of Clarke for the purchase price of \$60,000 and approves and agreement drafted by the town's attorney concerning sale of interest in the property.

VOTE:

Aye: Richard G. Sponseller, Mayor  
Harry Lee Arnold, Jr., Recorder  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay: None

Absent: None

ATTEST: \_\_\_\_\_  
Harry Lee Arnold, Jr., Recorder

respectively, from DR-4 Detached Residential to C General Commercial.

Ms. Dunkle said that the Planning Commission held a public hearing on November 28, 2006 and recommended that Council deny the above requests citing spot zoning and nonconformity with the Comprehensive Plan.

The Town Council set public hearings on the above matters for January 9, 2007 at 7:30 p.m.

#### Request to modify the Crow Street Parking Lot -16 Crow Street

Council member Kitselman recused himself from the discussion and left the table because he has a financial interest in the project.

Ms. Dunkle explained that the applicant is requesting several items concerning the portion of the Crow Street parking lot that the town owns. She said that they would like to add two handicapped-accessible parking spaces at the south end of the parking lot that would enable restaurant patrons to access the front of the proposed building. She said that there would be one space added in the front of the restaurant building on the street and would remove one space in the existing parking lot.

She said that the applicants also want to remove two existing utility poles and the light on one of them. She said that the applicant will replace at least one pole with a light similar to those in Rose Hill Park.

Mr. Dennie Dunlap of Triad Engineering was present to represent the applicant. He discussed some of the issues regarding the handicapped parking spaces.

Mr. Ken Livingston of Main Street Architects was present to represent the applicant.

There was a general discussion of the configuration of handicapped parking. Mr. Livingston said that he would do some research into ADA regulation and the possibility of modifying the handicapped parking situation.

Council asked if there is a reason that the Town Council is talking about this and not the Planning Commission. Mr. Dalton said it is because the Town Council is the property owner.

Mr. Livingston then presented some drawings of proposed lighting for the lot. He said they are trying not to project light onto the neighbor to the east.

Mr. Dalton said that he understands that the applicant would need access to the parking lot during construction. Mr. Jim Webb, the applicant then discussed the construction and renovation process and said that he would try to limit the interruption to a few spaces for a few weeks at a time.

Council member Nicholson said that if the sewer line is in bad condition that we may want to replace it when the work is done on the parking lot. Mr. Dalton said that he would have Public Works check into that.

Council member Arnold said that double head parking meters were discussed at the recent Community Improvements Committee meeting and they might be considered for

this project.

Council member Nicholson asked how much this project will cost the town. Mr. Webb said that he is paying for all of the improvements.

There was a discussion of the conditions on which this request would be granted.

Council member Arnold asked if the third light could be replaced so it would be the same as the other two lights. Mr. Dalton said that the third light is connected to a lot more and may prove difficult to replace.

Mr. Livingston said that the overhead utility wires will be replaced, and a guard rail will be place around the culvert. Mr. Dalton said that the guard rails should be removeable for maintenance.

There was agreement that in order for the applicant to have use of the parking lot re-striping as well as lighting, wheel stops, guard rails and overhead wire improvements must be performed as discussed. Any closure of the parking lot will be approved by the Town Manager and the applicant will also provide a certificate of insurance to the Town Manager. Also the applicant will be responsible for repairing any damage to the pavement resulting from the construction process.

It was moved by Council member Nicholson, seconded by Council member Kirby to approve the changes to the Crow Street parking lot subject to the approval of the Town Manager regarding required improvements, construction schedule and insurance requirements.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Harry Lee Arnold, Jr., Recorder  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Abstain – Allen Kitselman

Absent – None

#### Battlefield Estates Complaints

Ms. Dunkle said that staff has received several complaints about inoperable vehicles and trash in the Battlefield Estates parcel. Mr. Ted Bishop, a resident of Jackson Drive, sent an open letter about the above issues as well as concerns about the amount of construction traffic on Jackson Drive to staff.

Chief White has inspected the area regarding the complaints and wrote a letter to Mr. Echols concerning inoperable vehicles.

Mayor Sponseller, addressing Mr. Bishop's letter, said that VDOT has ruled that there can't be a stop sign at Ewell Court and that the council believes that private citizens

using a speed detector at that location is a recipe for disaster.

Council member Nicholson said that the council has addressed the issue of stop sign and has been clear that a stop sign cannot be placed at the location.

Council member Kitselman said he is disappointed by Mr. Bishop's letter. He said that the council understands the issues and has continued to work to resolve them. He asked if there is any chance of creating a speed zone with increased fines on Jackson Drive until another outlet is built.

Mayor Sponseller said that issue has been addressed by council before and ultimately it was decided that it was a bad idea.

Mr. Dalton asked if the police run radar on Jackson Drive. Chief White said that we do but it is hard to catch people. He said that the traffic counter has been out there but hasn't identified a speeding problem. He noted that he has also found that people are speeding through their own neighborhoods.

Council member Kirby said he believes that council has addressed these issues.

Council member Nicholson said that the concerns about the construction site are real. Ms. Dunkle said that she has had DCR and the Department of Forestry up to look at the site. Council member Nicholson said that the manholes sticking up in the field are an eyesore.

Ms. Dunkle reported that there has been progress on removing construction debris and inoperable vehicles.

Council member Nicholson asked about mowing regulations in regard to the site. Mr. Dalton said in the past Town Council has required that undeveloped areas have to be cut back at least 50 feet from developed lots.

Council member Kitselman asked if the developer can be made to use the construction entrance. Mr. Dalton suggested that this may be a VDOT issue and that it is best to try to limit construction traffic to Mosby Boulevard because it is bigger and wider and fewer houses front on it.

Council member Kirby reported that Mr. Echols said he has notified all of his delivery people to use Mosby Boulevard. He noted that traffic cannot be restricted on Jackson Drive because it is a public street.

Council member Nicholson asked about other jurisdiction use of construction travel permits. Chief White said that he would research that issue.

#### Mary Daniel – Barns Agreement

Mary Daniel, attorney for the Barns of Rose Hill said that she has completed a rough draft of modifications to the agreement between the barns and the town that was drawn up by the town's attorney. She said that there are no major changes. She said that there will most likely be another series of agreements as times goes on. She said that the agreement will show that the barns board has the right to do what they are trying to do with the barns.

### **Reports of Standing Committees**

- a. BADA Liaison  
No report.
- b. Budget/Finance/CIP – Richard G. Sponseller, Chair  
No report.
- c. Community Improvements – Allen Kitselman, Chair  
Chairman Kitselman reported that the meeting on downtown improvements was a very good meeting and a summary would be available at the next council meeting. He said that he likes the idea of a charrette.
- d. Personnel/Appointments - Richard Sponseller, Chair  
No report.
- e. Police and Security Committee – Barry Nicholson, Chair

### **Police Department – Monthly Report – Chief Neal White**

Chief White said that he has been attempting to resolve a problem with the accumulation of trash at 111 Liberty Street. He said that he has sent a letter to the property owner but the property has not been cleaned up. He said that in order to enforce the Town Code on the matter, Town Council must set a date for trash removal.

It was moved by Council member Nicholson, seconded by Council member Kirby to set a date for removal of trash from 111 Liberty Street for December 27, 2006.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Harry Lee Arnold, Jr., Recorder  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Absent – None

Chief White reported that he sent a summons to 210 North Buckmarsh Street regarding a similar violation and has seen some movement on cleanup.

### **Open Burning**

Council decided to direct staff to send the draft ordinance to the state for review and to set a public hearing on the matter after a reply is received from the state.

### **Report of the Town Manager – Keith Dalton**

Mr. Dalton thanked Desirée Moreland for her 30 years of service.

#### **Joint Government Center**

Mr. Dalton said everything is on track and that groundbreaking is expected in April. He said that there will be a site visit with the Planning Commission and adjacent property owners on December 14 at 3:30 p.m. and the Planning Commission will hold a public hearing on the site plan on December 19 at 7:30 p.m.

- f. Streets and Utilities - Wilson Kirby, Chairman  
No report.

There being no further business, on motion by Councilman Nicholson, seconded by Councilman Russell and passed by voice vote, the Council meeting was adjourned at 8:40 p.m.

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Richard G. Sponseller, Mayor

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Harry Lee Arnold, Jr., Recorder